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INSTITUTIONAL ARRANGEMENTS TO FOLLOW UP THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

Rules of procedure of the Commission on Sustainable Development

Report of the Secretary-General

1. The General Assembly, in its resolution 47/191 of 22 December 1992, requested the Economic and Social Council at its organizational session for 1993 to set up a high-level Commission on Sustainable Development as a functional commission of the Council in accordance with Article 68 of the Charter of the United Nations in order to ensure the effective follow-up of the United Nations Conference on Environment and Development, as well as to enhance international cooperation and rationalize the intergovernmental decision-making capacity for the integration of environment and development issues and to examine the progress of the implementation of Agenda 21 at the national, regional and international levels, fully guided by the principles of the Rio Declaration on Environment and Development and all other aspects of the Conference, in order to achieve sustainable development in all countries.

2. The Assembly recommended, inter alia, that the Commission should provide for representatives of various parts of the United Nations system and other intergovernmental organizations, including international financial institutions, the General Agreement on Tariffs and Trade, regional development banks, subregional financial institutions, relevant regional and subregional economic and technical cooperation organizations, and regional economic

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* E/1993/2 and Add.1.

integration organizations, to assist and advise the Commission in the performance of its functions within their respective areas of expertise and mandates, and to participate actively in its deliberations; provide for the European Economic Community (EEC), within its areas of competence, to participate - as will be appropriately defined in the rules of procedure of the Commission on Sustainable Development - fully, without the right to vote; and provide for non-governmental organizations, including those related to major groups, as well as industry and the scientific and business communities, to participate effectively in its work and contribute within their areas of competence to its deliberations.

3. In the light of the above, the General Assembly requested the Secretary-General to submit, for the consideration of the Economic and Social Council at its organizational session for 1993, his proposals on the rules of procedure of the Commission, including those related to participation of relevant intergovernmental and non-governmental organizations, as recommended by the United Nations Conference on Environment and Development, taking into account the following:

(a) The procedures, while ensuring the intergovernmental nature of the Commission, should allow its members to benefit from the expertise and competence of relevant intergovernmental and non-governmental organizations;

(b) The procedures should permit relevant intergovernmental organizations inside and outside the United Nations system, including multilateral financial institutions, to appoint special representatives to the Commission;

(c) The rules of procedure of the Economic and Social Council and the rules of procedure of its functional commissions;

(d) The rules of procedure of the United Nations Conference on Environment and Development;

(e) Decisions 1/1 and 2/1 of the Preparatory Committee for the United Nations Conference on Environment and Development;

(f) Paragraphs 38.11 and 38.44 of Agenda 21.

4. The functional commissions of the Council work under the rules of procedure of the functional commissions of the Economic and Social Council (E/5975/Rev.1). However, rule 27.2 of the rules of procedure of the Council (E/5715/Rev.2) states that "the rules of procedure of the commissions and their subsidiary bodies shall be drawn up by the Council, unless it decides otherwise". In the light of the recommendations of the General Assembly regarding the rules of procedure of the Commission on Sustainable Development, it would appear that two possible courses of action are open to the Council. It could (i) elaborate a separate set of rules of procedure for this Commission; or (ii) take decisions, applicable only to the Commission on Sustainable Development, regarding relevant provisions of the standard rules of procedure of the functional commissions in order to ensure that its procedures align with paragraphs 7 and 8 of General Assembly resolution 47/191.

5. The Secretary-General is of the view that most of the standard rules of procedure of the functional commissions of the Council continue to be relevant to the Commission on Sustainable Development and would allow it to perform its functions effectively. Some questions arise, however, in respect of the rules related to the participation of specialized agencies, other intergovernmental organizations and EEC, as well as to the representation of and consultation with non-governmental organizations.

6. In order to adjust the relevant provisions of the standard rules of procedure of the functional commissions to meet the needs of the Commission on Sustainable Development, as recommended by the General Assembly, the Secretary-General suggests that the Council might adopt a resolution, applicable solely to the Commission on Sustainable Development, which would give an interpretative statement of rules 71-73 on the participation of and consultation with specialized agencies and rule 74 on the participation of other intergovernmental organizations; supersede rules 75 and 76 on representation of and consultation with non-governmental organizations; and provide for the participation of EEC in the Commission on Sustainable Development. In any case, the Council may wish to amend footnote 1 to the rules of procedure of the functional commissions of the Economic and Social Council (E/5975/Rev.1) to include the Commission on Sustainable Development in the enumeration of functional commissions.

Participation of and consultation with specialized agencies and participation of other intergovernmental organizations (rules 71-74)

7. The General Assembly recommended that the rules of procedure of the Commission on Sustainable Development should permit relevant intergovernmental organizations inside and outside the United Nations system, including multilateral financial institutions, to appoint special representatives to the Commission. In the view of the Secretary-General, it would be useful for specialized agencies and other relevant intergovernmental organizations, including financial institutions, to designate a representative to attend the sessions of the Commission on their behalf in order to assist and advise it in the performance of its functions within their areas of expertise, as well as to serve as a focal point for the Commission's members and the secretariat during the inter-sessional periods.

8. It seems that, in principle, the current provisions of the rules of procedure of the functional commissions of the Council would allow specialized agencies and other intergovernmental organizations to appoint special representatives to the Commission on Sustainable Development. Accordingly, the Council may wish to adopt an appropriate interpretative decision regarding rules 71-74, in which it could invite specialized agencies and other intergovernmental organizations, including financial institutions, to consider designating such representatives with the above-mentioned functions.

Participation of the European Economic Community

9. Upon the recommendation of the Preparatory Committee for the United Nations Conference on Environment and Development contained in its decision 4/6 on the status of EEC at the Conference, the General Assembly, in its decision 46/470 of 13 April 1992, decided to amend the draft provisional rules of the Conference "in order to allow the European Economic Community to participate fully" in the Conference. The Secretary-General notes that these rules cannot, in and of themselves, be utilized for EEC participation in the Commission on Sustainable Development. Whereas the Assembly decided to include EEC among the full participants at the Conference, the Assembly decided that the 53 members of the Commission would be States. The EEC thus cannot be a member of the Commission. With the exception of chapter XII (Participation of non-members of the commission), the rules of procedure of the functional commissions of the Council govern the rights of the elected members of the functional commissions. It would not, in the Secretary-General's view, be appropriate to provide a general rule or decision by which a non-member of the new Commission could have the same rights as members.

10. Moreover, such a general rule would not be in accord with the precedent set for the United Nations Conference on Environment and Development with regard to "full participation" of EEC. It should be recalled that by decisions 4/6 of the Preparatory Committee for the Conference and 46/470 of the General Assembly, the rules of procedure of the Conference were amended in order to allow EEC to participate fully in the Conference. 1/ As amended, some rules applied both to representatives of States and to EEC, such as the rule on submission of credentials, and some rules applied to representatives without distinguishing among them, such as the rule on making proposals. Other rules, however, were restricted only to the representatives of States, such as those concerning the holding of office, being counted for quorum purposes and making such procedural motions as those for adjournment of debate, closure of debate, or suspension or adjournment of the meeting.

11. In the Secretary-General's view, the Council could give EEC rights of full participation as a non-member of the Commission, analogous to rights found in the existing rules applicable to the participation of non-members of the functional commissions, in particular rules 69 and 71. The Council could accord such rights to EEC by means of a separate decision relating to EEC participation as a non-member of the Commission along the following lines:

1/ See A/CONF.151/PC/L.74, A/CONF.151/PC/128, paras. 36-38, Preparatory Committee decision 4/8, A/46/897 and A/CONF.151/2.

"Participation of the European Economic Community
in the Commission on Sustainable Development

"The Commission on Sustainable Development or a subsidiary organ thereof shall invite the European Economic Community, within its areas of competence, to participate fully in its deliberations on any matter of particular concern to the Community. The Community shall not have the right to vote, but may submit proposals which may be put to the vote at the request of any member of the Commission or of the subsidiary organ concerned."

12. Accordingly, the Council may wish to incorporate a footnote to rule 74 of the rules of procedure of the functional commissions of the Council (E/5975/Rev.1) that would read: "Participation of the European Economic Community in the Commission on Sustainable Development is governed by Economic and Social Council resolution [number of the resolution the Council might adopt in this regard]."

13. Finally, it should be observed that participation in informal meetings, consultations or negotiations is a matter falling outside the formal rules of procedure; it is a matter in the first instance for the convenor of such meetings to determine. Thus, participation of EEC in such meetings will be a policy matter to be determined.

Representation of and consultation with non-governmental organizations (rules 75 and 76)

14. The United Nations Conference on Environment and Development was characterized by unprecedented involvement of non-governmental organizations. These organizations made a significant contribution to both the preparations for and the results of the Conference. The procedures for the participation and accreditation of non-governmental organizations for the Conference and the preparatory process was determined by the Preparatory Committee for the Conference in its decisions 1/1 and 2/1, subsequently endorsed by the General Assembly in its resolutions 45/211 of 21 December 1990 and 46/168 of 19 December 1991. Decision 1/1 of the Preparatory Committee highlighted the need to ensure equitable representation in the preparatory process of non-governmental organizations from developed and developing countries and from all regions, as well as to ensure a fair balance between non-governmental organizations with an environmental focus and those with a developmental focus and to encourage the participation of scientific organizations.

15. By the conclusion of the fourth session of the Preparatory Committee, the Committee had established the competence and relevance of more than 1,400 non-governmental organizations for participation in its work. These organizations were eligible, in accordance with General Assembly resolution 46/168, to participate as observers at the Conference. Some 1,000 of these non-governmental organizations do not have consultative or Roster status with the Council.

16. The United Nations Conference on Environment and Development recommended that the Commission on Sustainable Development should "encourage the participation of non-governmental organizations, including industry and the business and scientific communities" (paragraph 38.11 of Agenda 21), and in relation to the follow-up process of the Conference, stated that "procedures should be established for an expanded role for non-governmental organizations, including those related to major groups, with accreditation based on the procedures used for the Conference" (paragraph 38.44 of Agenda 21).

17. The Secretary-General shares the view of the General Assembly that the Commission on Sustainable Development should continue to benefit from the expertise and competence of non-governmental organizations, including those that were accredited to the United Nations Conference on Environment and Development. In order to ensure continuity and further enhance the dialogue between the representatives of Governments and the non-governmental organizations, as important partners for sustainable development, the Economic and Social Council may wish to decide that any non-governmental organization which was accredited to participate in the work of the Preparatory Committee for the United Nations Conference on Environment and Development by the conclusion of its fourth session but does not have consultative status with the Council can apply for and shall be granted Roster status, bearing in mind the provisions of Article 71 of the Charter of the United Nations. Those non-governmental organizations shall be eligible to designate authorized representatives to participate in the sessions of the Commission on Sustainable Development in accordance with its rules of procedure.

18. A decision of the Council to grant Roster status to interested non-governmental organizations which were accredited to participate in the United Nations Conference on Environment and Development would be likely to result in a significant increase in the number of non-governmental organizations eligible to participate in the Commission on Sustainable Development. To enhance and facilitate the active and coordinated participation of the non-governmental organizations in the work of the Commission, the Secretary-General believes that it might be useful for the non-governmental organizations themselves to organize or continue organizing in various constituencies and interest groups and to set up non-governmental networks, including electronic networks, for exchange of information and documentation related to the work of the Commission and the follow-up of the United Nations Conference on Environment and Development in general.

19. In addition, non-governmental preparations for and contributions to the follow-up of the Conference and the work of the Commission on Sustainable Development might be facilitated through such arrangements as the following:

(a) Non-governmental organizations could organize coalitions/consortiums which could meet annually in advance of the sessions of the Commission on Sustainable Development to develop positions and designate representatives to attend its sessions and act as their spokespersons;

(b) Non-governmental organizations could hold periodic subregional/regional meetings to develop positions on given themes based on the work programme of the Commission on Sustainable Development;

(c) Non-governmental organizations could consider developing parallel consultative processes linked with the themes reflected in the work programme of the Commission on Sustainable Development;

(d) Annual meetings between groups of non-governmental organizations and the secretariat of the Commission on Sustainable Development could be organized in order to maintain an active relationship and liaison during the inter-sessional periods.

20. Bearing in mind the procedures related to the participation of the non-governmental organizations developed for the United Nations Conference on Environment and Development and its preparatory process, in particular decision 1/1 of the Preparatory Committee, the Council may also wish to adopt the following decision, which would supersede, solely for the purposes of the Commission on Sustainable Development, rules 75 and 76 of the rules of procedure of the functional commissions of the Council:

"Representation of and consultation with the non-governmental organizations in the Commission on Sustainable Development

"1. Non-governmental organizations in consultative status with the Economic and Social Council, category I or II, or relevant and competent non-governmental organizations on the Roster, 2/ may designate authorized representatives to be present and observe the meetings of the commission and its subsidiary organs. Should the number of non-governmental organizations which have expressed their desire to be present at such meetings exceed the capacity of the room where the meeting of the Commission or its subsidiary body is being held, the Chairman of the commission or its subsidiary organ may request the non-governmental organizations concerned to designate representatives to be present in the room.

"2. These non-governmental organizations may, at their own expense, make written presentations to the commission and its subsidiary organs through the Secretariat in the official languages of the United Nations, as they deem appropriate. Those written presentations will not be issued as official documents.

2/ The relevance and competence of the non-governmental organizations on the Roster shall be determined by the Council on the recommendation of the Secretary-General.

"3. These non-governmental organizations may be given an opportunity to briefly address the meetings of the commission and its subsidiary organs. Taking into account of the number of non-governmental organizations expressing a desire to be accorded that opportunity, the Chairman of the commission or its subsidiary organ may request the non-governmental organizations concerned to address the meetings through one or more spokespersons. Any oral intervention by a representative of a non-governmental organization shall be made at the discretion of the Chairman of the commission or its subsidiary organ and with the consent of the members of the commission or its subsidiary organ, as the case may be.

"4. Non-governmental organizations shall not have any negotiating role in the work of the commission and its subsidiary organs.

"5. The Commission may consult with non-governmental organizations in consultative status with the Council, category I or II, or relevant and competent non-governmental organizations on the Roster, 2/ either directly or through a committee or committees established for that purpose. In all cases, such consultations may be arranged at the invitation of the commission, at the request of a non-governmental organization or on the recommendation of the Secretary-General."

21. Accordingly, the Council may wish to incorporate an additional footnote to rules 75 and 76 of the rules of procedure of the functional commissions of the Council (E/5975/Rev.1) that would read: "Not applicable to the Commission on Sustainable Development, for which the terms of representation of and consultation with the non-governmental organizations were determined by the Economic and Social Council in its resolution [number of the resolution the Council might adopt in this regard]."

22. The Secretary-General also believes that it would be appropriate for the Council to undertake a general review of the overall arrangements for consultations with non-governmental organizations. The current arrangements were basically determined by the Council in its resolution 1296 (XLIV) of 23 May 1968. It now seems an appropriate time to update those arrangements in the light of relevant experience gained within the United Nations in the course of the last 25 years, in particular through the United Nations Conference on Environment and Development and its preparatory process. Accordingly, the Council may wish to request the Committee on Non-Governmental Organizations to undertake such a review and to report back to the Council at its substantive session of 1995.